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9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 RALLY AUTO GROUP, INC.,

) Case No. SACV10-01236 DOC(EX)

12 Petitioner.

13 v.

14 GENERAL MOTORS, LLC,

) PLAINTIFF'S REQUEST FOR
15 Respondent.) DISMISSAL PURSUANT TO COURT
16 ORDER
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20 Plaintiff, RALLY AUTO GROUP, INC., hereby requests that the above-entitled action
21 be dismissed pursuant to the Order of the United States Bankruptcy Court, Southern District of
22 New York, dated October 12, 2010 in the matter entitled *In Re: Motors Liquidation Company,*
23 *et al.*, Case No. 09-50026 (REG) (a true and correct copy of which is attached hereto as Exhibit
24 "A"). RALLY AUTO GROUP, INC. makes this Request in order to comply with the attached
25 order of the Bankruptcy Court Judge Robert E. Gerber, and by doing so, does not waive any
26 rights and reserves any and all objections thereto.

27 On December 21, 2009, RALLY AUTO GROUP, INC. filed a Demand for a Dealer
28 Reinstatement Arbitration under the Consolidation Appropriations Act of 2010, which

1 proceeded to hearing on May 13, 2010. On June 8, 2010, the Arbitrator issued his ruling,
2 reinstating the Pontiac, GMC and Cadillac brands, but not the Chevrolet brand.

3 On August 13, 2010, RALLY AUTO GROUP, INC. filed a Petition to Modify or,
4 Alternatively, Vacate the Arbitration Award with the United States District Court, for the
5 Central District of California. GM responded to the Petition to Modify by filing a motion in the
6 United States Bankruptcy Court, for the Southern District of New York, to prevent RALLY
7 from appealing the Arbitration Award.

8 On October 12, 2010, the United States Bankruptcy Court, for the Southern District of
9 New York, granted GM's motion, and issued an Order requiring RALLY to dismiss its action
10 in the U. S. District Court. The Bankruptcy Court also granted a temporary stay of its Order to
11 enable RALLY to request a stay from the United States District Court, for the Southern District
12 of New York.

13 On October 15, 2010, the United States District Court in New York issued a temporary
14 injunction preventing GM from "terminating, suspending, canceling, limiting or otherwise
15 restricting, under the Wind-Down Agreement, RALLY's Chevrolet Dealer Agreement and right
16 to own and operate a Chevrolet dealership".

17 On October 29, 2010, the New York District Court denied RALLY's Motion for a Stay
18 Pending Appeal, and dissolved the temporary injunction it had previously issued. RALLY is
19 now appealing the Bankruptcy Court's October 12, 2010, Order.

20 Petitioner disagrees with the Bankruptcy Court and the District Court orders. Both may
21 be void or voidable based upon lack of personal and/or subject matter jurisdiction. Both fail
22 to recognize or apply the Constitutional rights and protections of due process and other legal
23 arguments raised. Additionally, the RALLY AUTO GROUP matter appeal is still pending, and
24 the time for Petitioner to file a Notice of Appeal has not expired.

25 In order to comply with the pending New York orders while the RALLY appeal
26 continues, these matters are being dismissed, **over the Petitioner's objections**, in order to act
27 in good faith, comply with a collateral court's order, and reasonably proceed through the
28 judicial system's appellate process.

1 Therefore, RALLY AUTO GROUP, INC., pursuant to various New York Court orders,
2 but not waiving any of its legal rights and factual objections, hereby requests a dismissal,
3 subject to further appellate review, reinstatement, subsequent proceedings, or any other legal
4 or equitable remedy another court may deem just and fair.

5 NOW THEREFORE, in a good faith attempt to comply with the New York Bankruptcy
6 Court's October 12, 2010 Order, RALLY AUTO GROUP, INC. hereby requests, **under**
7 **objection**, that the instant action be dismissed.

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Respectfully submitted,

10 DATED: November 3, 2010

11 **FERRUZZO & FERRUZZO LLP**

12 By:

13 Gregory J. Ferruzzo, Esq.
14 Attorneys for Petitioner

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1 **CERTIFICATE OF SERVICE**

2 **Mailing Information for a Case No. SACV-1082-CJC**

3 **Electronic Mail Notice List**

4 The following are those who are currently on the list to receive e-mail notices for this case.

5 Gregory J. Ferruzzo, Esq.
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11 Document Served:

12 **PLAINTIFF'S REQUEST FOR DISMISSAL
13 PURSUANT TO COURT ORDER**

14 **Manual Notice List**

15 The following is the list of attorneys who are **not** on the list to receive e-mail notices for this
16 case (who therefore require manual noticing). You may wish to use your mouse to select and
17 copy this list into your word processing program in order to create notices or labels for these
18 recipients.

19 *(No manual recipients)*

20 DATED: November 3, 2010

21 **FERRUZZO & FERRUZZO**

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